IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 1908 of 2005

Between:

P. Prasad, S/o. P. Paddayya,
E.No. 400866, R/o. Door No. 84-76-4, Shareennagar, B-Camp, Kurnool

..... PETITIONER

AND

The Depot Manager, A.P.S.R.T.C. Kurnool Depot, Kurnool, Kurnool District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or orders or direction more particularly one in the nature of writ of Mandamus declaring the proceedings No. 02/62(170)/91-KAN dated 23-6-1991, as illegal, arbitrary, and violation of the Articles 14 and 21 of the Constitution of India and consequently direct the respondent to add one annual increment to the pay of the petitioner.

Counsel for the Petitioner: MR.A.RAMA RAO

Counsel for the Respondent: MR.P.VINAYAKA SWAMY , S.C. for APSRTC

The Court made the following :

ORAL ORDER:

The petitioner is working as a Conductor in the respondent-Corporation. He was issued a charge memo on 5.4.1991. After receiving the explanation of the petitioner, the 2nd respondent passed final orders on 23.6.1991 imposing penalty of withholding one annual incremental with cumulative effect. The petitioner questioned the order on the ground that though the reduction of annual increment for one year with cumulative effect is a major penalty, the respondent passed the impugned order without conducting any enquiry as required under the Rules. Therefore, the order is illegal and liable to be set aside.

The learned counsel for the petitioner relied on a judgment of the Supreme Court in ***KULWANT SINGH GILL Vs. STATE OF PUNJAB*** wherein the Apex Court held that since the punishment imposed on the petitioner is a major punishment, the impugned order cannot be sustained without there being any enquiry. The petitioner, therefore, seeks to declare the order as illegal.

The petitioner, after receiving the adverse orders, slept over the

matter for a period of thirteen years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside on account of lapse of time, but in view of the judgment of the Supreme Court in **Kulwant Singh Gill's** case (1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as one annual increment without cumulative effect. The petitioner is not entitled to the difference of the amount or any other monitory benefit, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order as he had not been imposed penalty of reduction of one annual increment without cumulative effect.

The writ petition is disposed of in terms of the above direction. In the circumstances of the case, there shall be no order as to costs.

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(K.C. BHANU, J.)

8th February, 2005.

bcj

To

1. The Depot Manager, A.P.S.R.T.C. Kurnool Depot, Kurnool, Kurnool District.

2. Two C.D. copies.